the price cap plan more often than once every four years.[165] The Commission acknowledges, however, that frequent review could undermine price cap efficiency incentives if LECs perceive that increased earnings resulting from efficiency gains may be eliminated in the review.[166]

The Commission is correct that a frequent review of the incentive features of the price cap plan could diminish LEC incentives to undertake efficiency measures, as well as innovation and network infrastructure development. If the sharing mechanism is eliminated, and the pricing and other regulatory flexibility proposals outlined herein are adopted, a mechanism would be in place to account for the changes in the degree of competition in access markets without the need for a formal review every year, or even every several years. In such case, the Commission could postpone its next major price cap review for 8 to 10 years.[167]

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165 The Commission states that, "a review might be completed every second year, or every year, possibly limited to issues of the level of competition that has developed and whether competition warrants moving services into other baskets or streamlined regulation". (NPRM at para. 99).

166 NPRM at para. 99.

167 The SPR Study recommends that the term of the plan be lengthened to 8 to 10 years, since a more lengthy term "optimizes the trade-off between the higher risk of a long-term plan and the diluted incentives of a short-term plan". (SPR Report at p. 48). NYNEX would, however, support a more frequent review of the plan for the limited purpose of ensuring that the plan continues to reflect changes in the competitive nature of access markets.

III. THE PRICE CAP REVIEW MUST BE CAREFULLY COORDINATED WITH OTHER PENDING PROCEEDINGS

The Commission seeks comment on how to "best harmonize the review of LEC price caps with other proceedings and proposals".[168] As demonstrated above, reform of both the Commission's price cap and access charge rules are necessary for achieving the Commission's goals of universal service, infrastructure development, new service introduction and vibrant competition. There are currently several important access reform initiatives pending. Those proceedings must be carefully coordinated with the LEC price cap review.

The Commission should approve the USPP as soon as possible. NYNEX cannot maintain the current access charge system under competitive conditions unless the Commission allows it to align rates with costs in the most competitive market areas. Although the issue of above-cost switched access rates affects all LECs, NYNEX cannot wait for the Commission to address this issue in a comprehensive access charge review. Competition in the NYNEX region is so intense that most of the damage will have been done before the Commission has had an opportunity to complete a comprehensive access charge reform proceeding. The Commission should, therefore, grant NYNEX a waiver to implement the USPP as soon as possible.

Furthermore, the price cap review and the access reform process must move forward together. Many important access reform issues, such as increased pricing flexibility for

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168 NPRM at para. 91, Baseline Issue 12.

LECs and revision of the baskets and bands, have been raised in this proceeding. The Commission should resolve those issues in this proceeding by implementing the reforms discussed by NYNEX in these Comments.[169] The remaining access reform issues should be promptly resolved in a separate proceeding. The need for reform is urgent, and there is already sufficient data on the record in a variety of proceedings to support an NPRM. That NPRM should be based on the rule changes proposed by USTA in its Petition.[170] The Commission should issue an NPRM immediately, and complete its review of the access charge rules by the conclusion of this year.

Finally, as has been noted, with the growth of competition there is a need for a comprehensive examination of universal service issues.[171] The Commission should establish a comprehensive proceeding to consider universal service and subsidy issues. Universal service issues are already the subject of intense discussion in industry fora. Moreover, universal service is clearly a matter of great interest in Congress, as evidenced by the recent legislation introduced by

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169 See Federal Perspectives on Access Charge Reform, a Staff Analysis, dated April 30, 1993 at p. 3.

170 See In the Matter of Reform of the Interstate Access Rules, RM-8356, United States Telephone Association, Petition for Rulemaking, filed September 17, 1993.

171 See MFS Communications Company, Petition for a Notice of Inquiry and En Banc Hearing, filed November 1, 1993.

Congressmen Markey and Fields.[172] The Commission should issue a notice of inquiry as soon as possible to help focus the debate on these important issues. While resolution of universal service issues should not delay implementation of the necessary price cap and access charge reforms, the Commission should expedite the universal service proceeding to the extent possible so that it can be properly coordinated with other related initiatives.

IV. CONCLUSION

Price cap regulation has helped to foster the Commission's goals of just, reasonable and nondiscriminatory rates, as well as a communications system that offers innovative, high quality services. Changes in technology and the dramatic growth of competition, however, have eroded the basis for fundamental elements of both the Commission's price cap and access charge rules. If the Commission's goals are to continue to be achieved in the future, significant modifications to the price cap plan are required. Most importantly, the Commission should adopt a pure price cap model. By so doing, it will provide price cap LECs with the investment and efficiency incentives necessary for them to participate fully in the development of the National Information Infrastructure. The Commission must also make a

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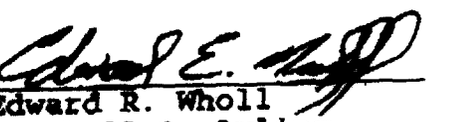
172 This legislation would require that the Commission and state regulators, through a Joint Board process, develop recommendations for the preservation of universal service.

number of revisions to the plan in order to promote regulatory parity between the LECs and their competitors, including revised and simplified price cap baskets and bands and significantly increased pricing flexibility for LECs subject to competition. By making these changes, and the other changes to its rules discussed in these Comments, the Commission will help to assure that all Americans receive the full benefits of competition.

Respectfully submitted,

The NYNEX Telephone Companies

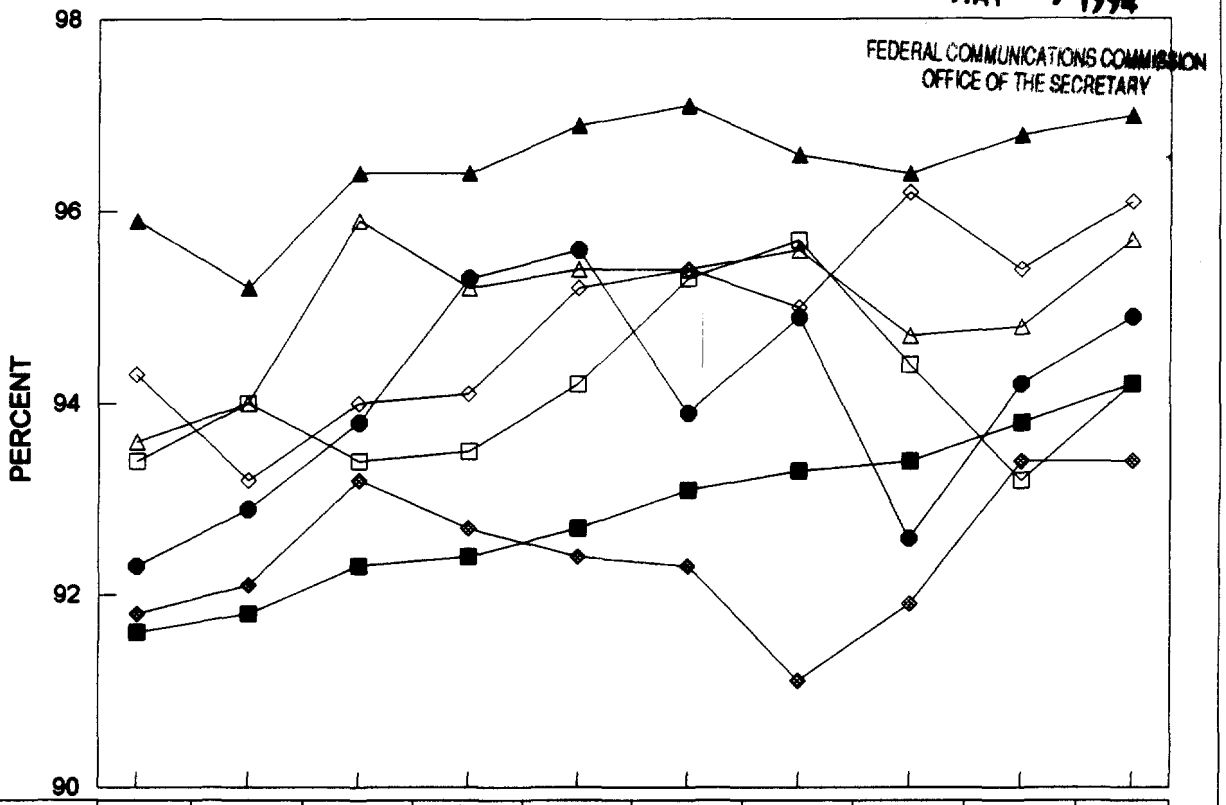
By: 
Edward R. Wholl
Campbell L. Ayling
Edward E. Niehoff

120 Bloomingdale Road
White Plains, NY 10605
914/644-5971

Their Attorneys

Dated: May 9, 1994

% OF HOUSEHOLDS WITH A TELEPHONE



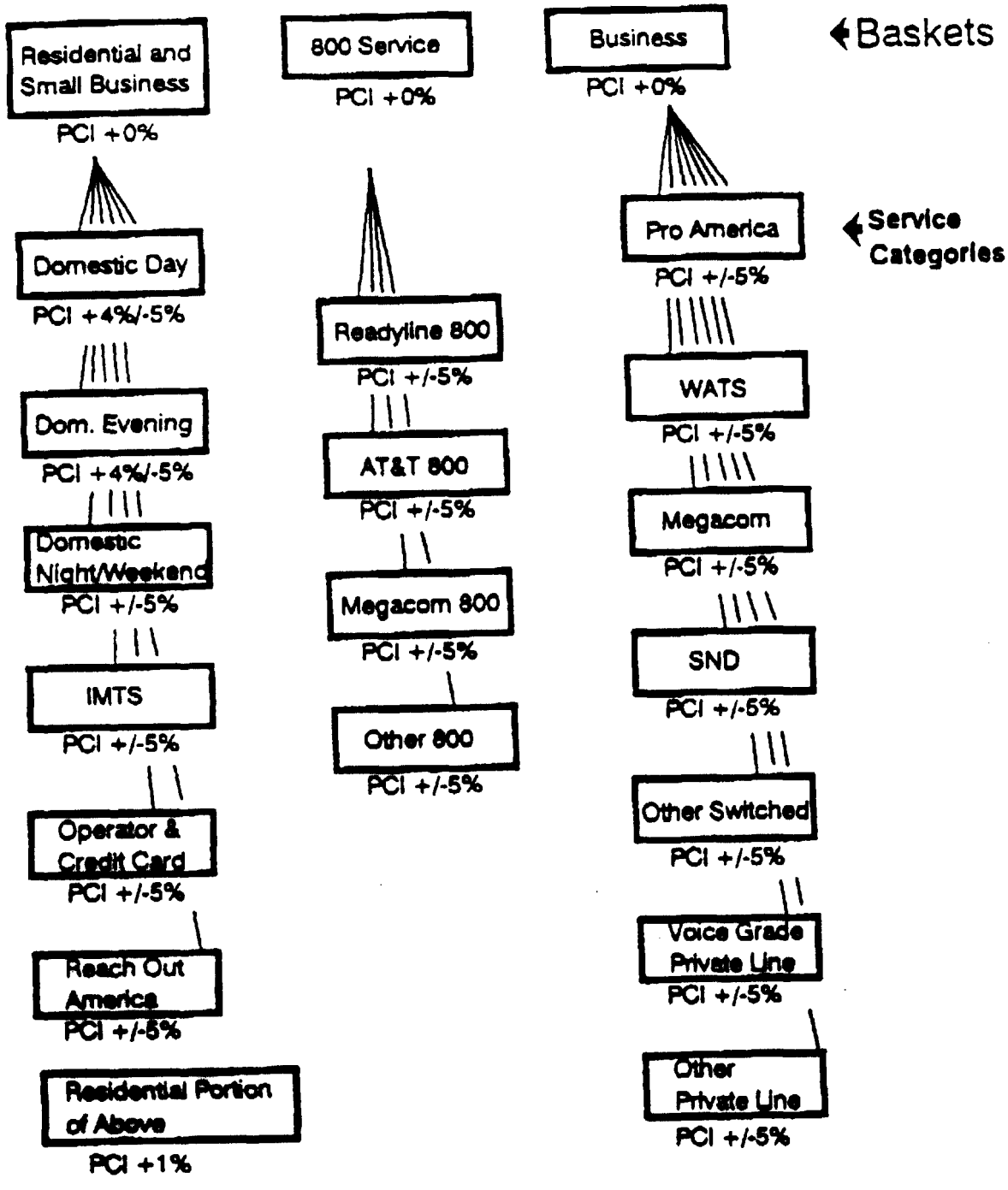
YEAR	1984	1985	1986	1987	1988	1989	1990	1991	1992	1993*
■ USA	91.6	91.8	92.3	92.4	92.7	93.1	93.3	93.4	93.8	94.2
◆ NY	91.8	92.1	93.2	92.7	92.4	92.3	91.1	91.9	93.4	93.4
▲ MASS	95.9	95.2	96.4	96.4	96.9	97.1	96.6	96.4	96.8	97.0
⊡ MAINE	93.4	94.0	93.4	93.5	94.2	95.3	95.7	94.4	93.2	94.2
◇ NH	94.3	93.2	94.0	94.1	95.2	95.4	95.0	96.2	95.4	96.1
△ RI	93.6	94.0	95.9	95.2	95.4	95.4	95.6	94.7	94.8	95.7
● VERMT	92.3	92.9	93.8	95.3	95.6	93.9	94.9	92.6	94.2	94.9

*** AS OF JULY 1993.**

SOURCE: FCC News Release 41098, released December 29, 1993 titled "FCC RELEASES TELEPHONE SUBSCRIBERSHIP DATA"

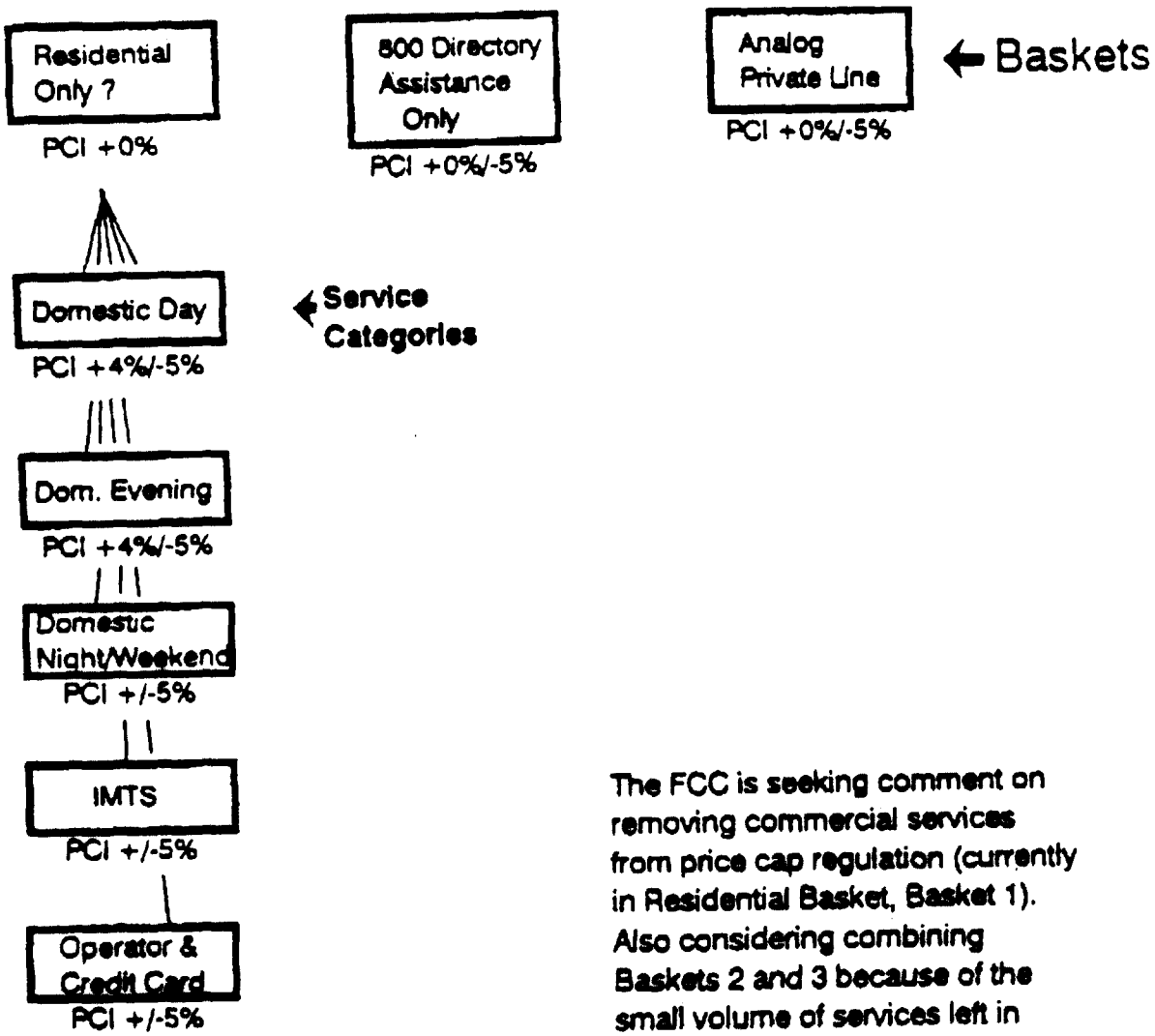
AT&T Price Cap Plan
At Implementation (7-1-89)

Each Basket has its own Price Cap Index (PCI) = Inflation - Productivity Offset +/- Exogenous.



AT&T Price Cap Plan
Now, with Proposed Changes

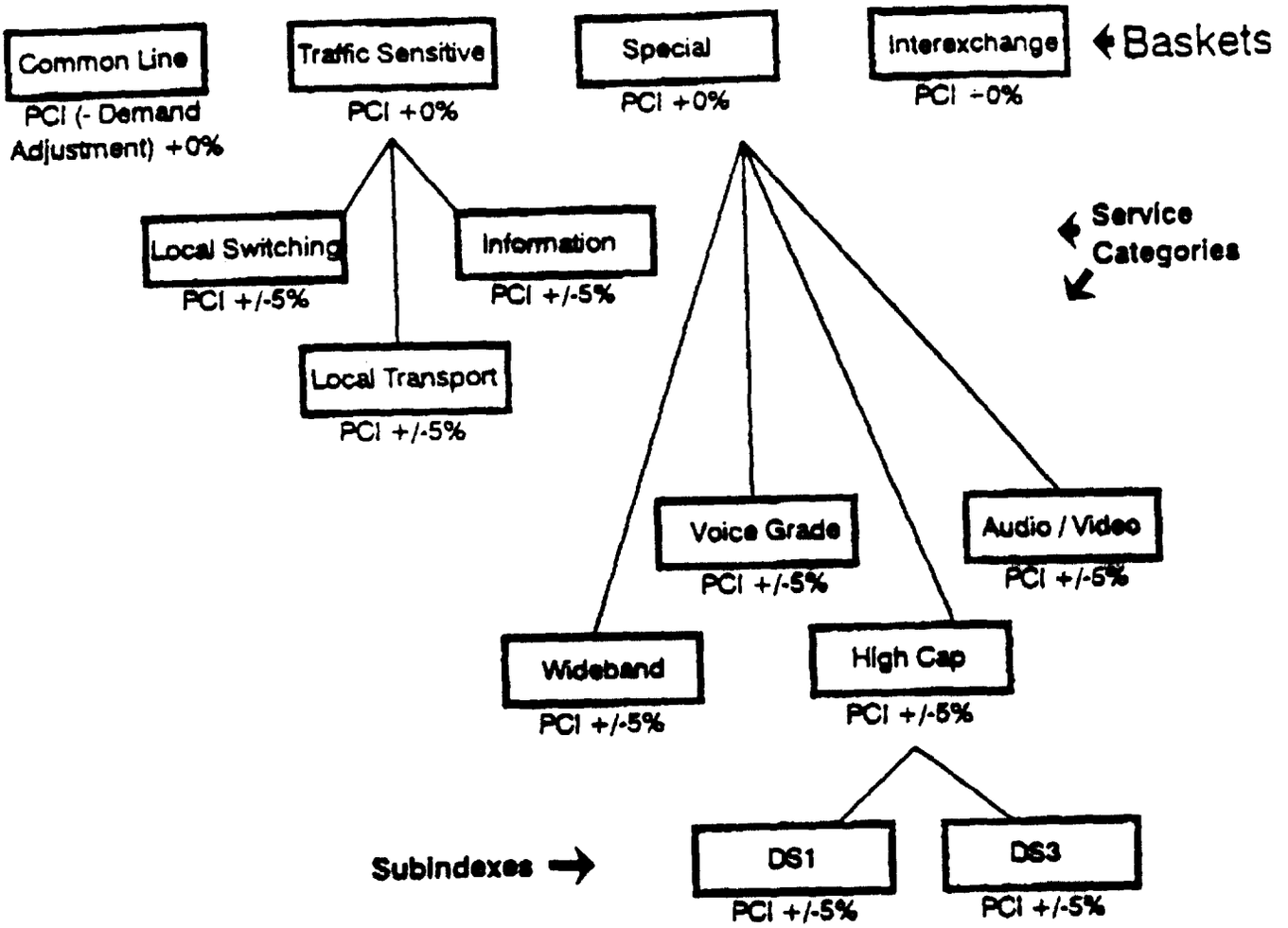
Each Basket has its own Price Cap Index (PCI) = Inflation - Productivity Offset +/- Exogenous.



The FCC is seeking comment on removing commercial services from price cap regulation (currently in Residential Basket, Basket 1). Also considering combining Baskets 2 and 3 because of the small volume of services left in these two baskets.

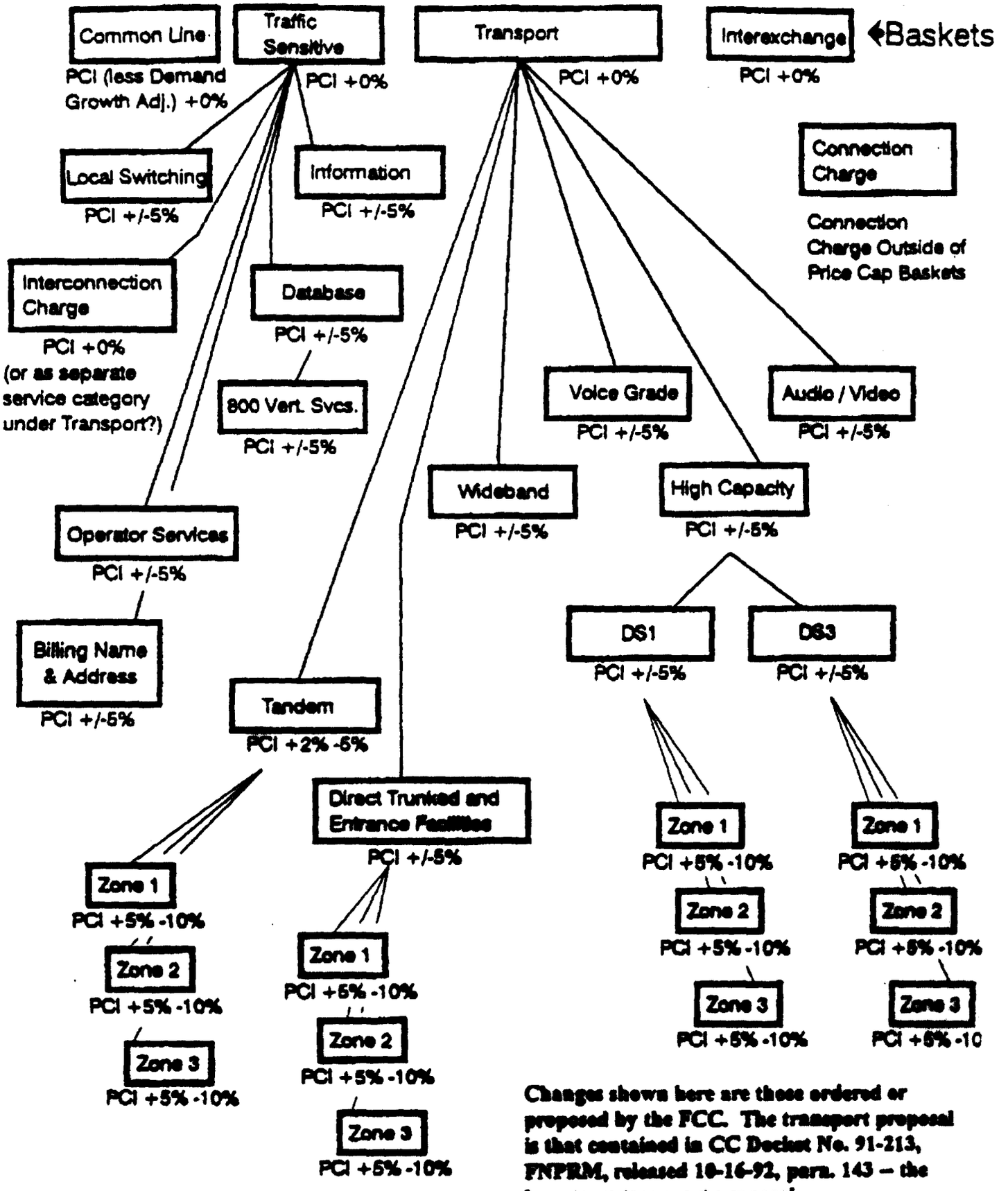
LEC Price Cap Plan
At Implementation (1-1-91)

Each Basket has its own Price Cap Index (PCI) = Inflation - Productivity Offset +/- Exogenous.



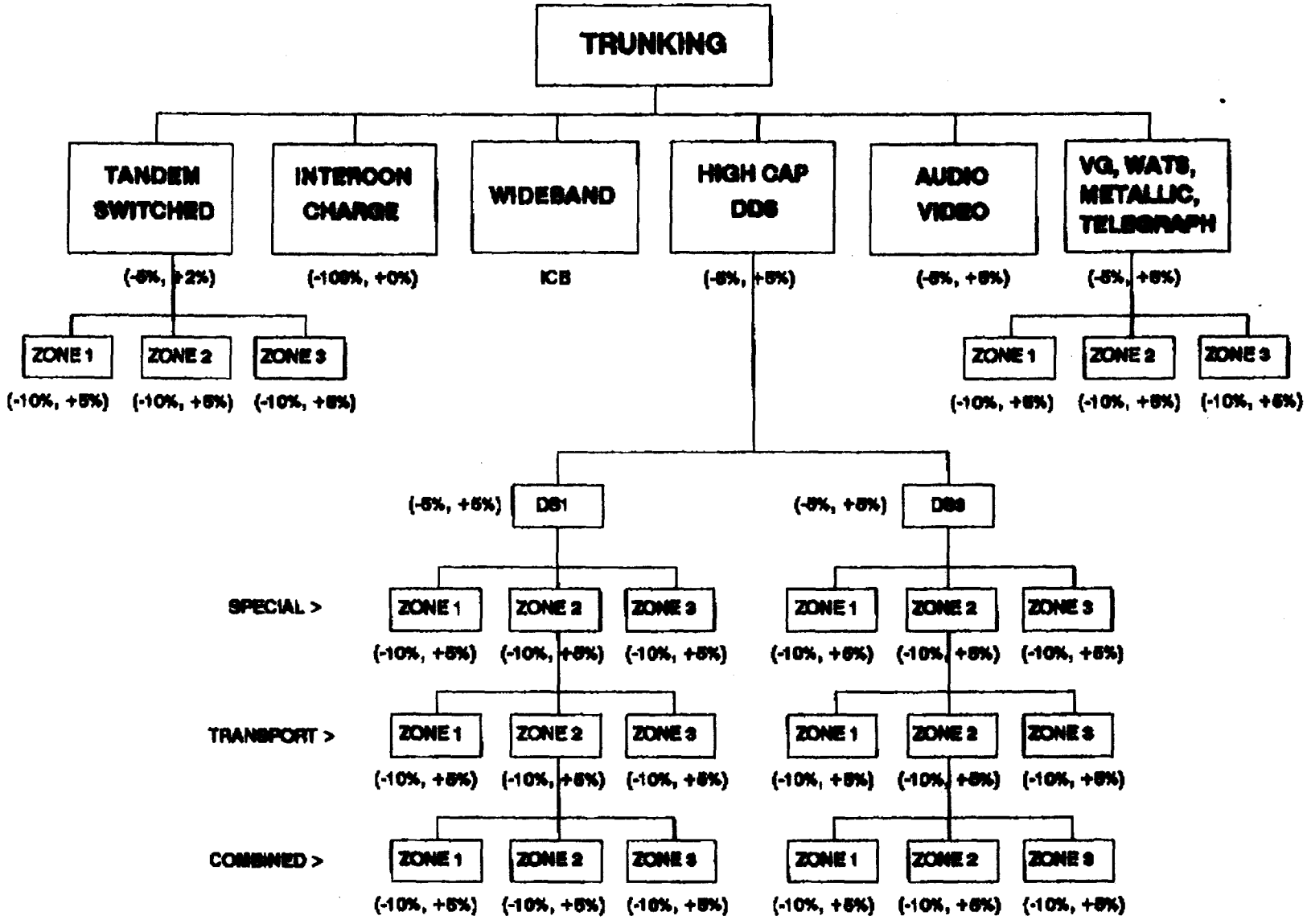
LEC Price Cap Plan
Now, with Proposed Changes

Each Basket has its own Price Cap Index (PCI) = Inflation - Productivity Offset +/- Exogenous.



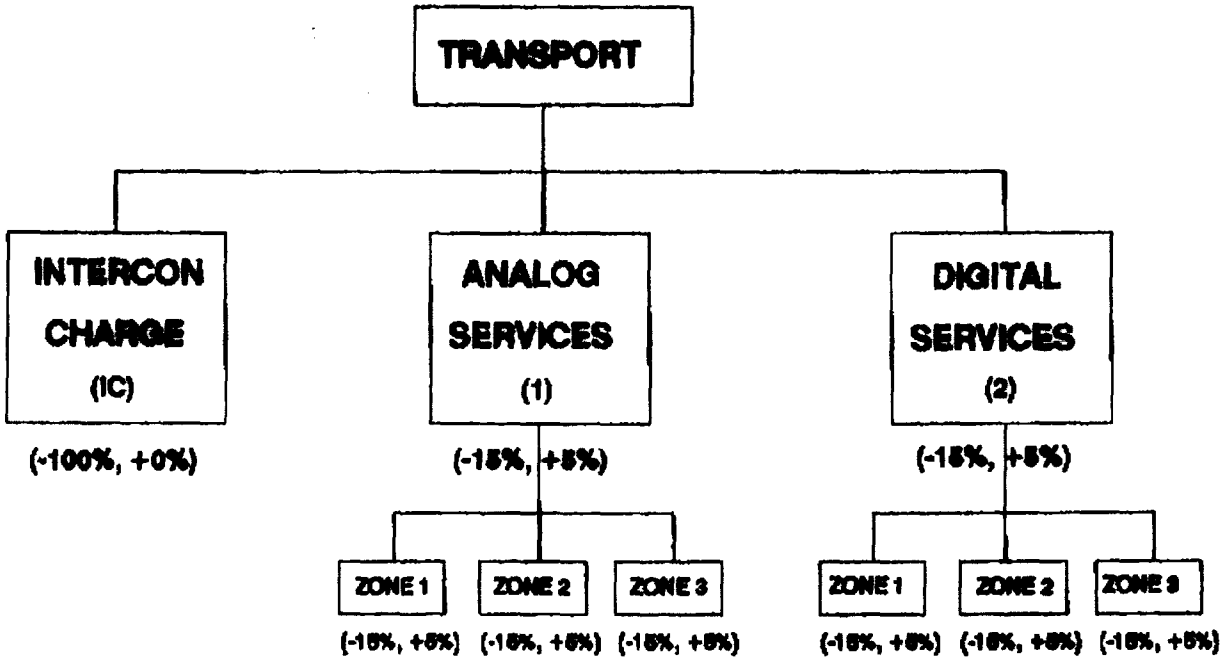
Changes shown here are those ordered or proposed by the FCC. The transport proposal is that contained in CC Docket No. 91-213, FNPRM, released 10-16-92, para. 143 -- the long-term transport proposal.

CURRENT TRUNKING BASKET



ATTACHMENT D

PROPOSED TRANSPORT BASKET



(1) INCLUDES VG, WATS, METALLIC, TELEGRAPH, PROG AUDIO, VIDEO SVCS

(2) INCLUDES DS1, DS3, DDS, TST (IO), WIDEBAND SVCS

ATTACHMENT 1

Exhibit 10

ON COMPETITION: THE EVOLUTION OF COMPETITIVE ACCESS AND LOCAL EXCHANGE MARKETS IN THE NYNEX OPERATING AREAS

TABLE OF CONTENTS

A. The NYNEX Region Is Particularly Attractive To Competition Due To The High Concentrations of Traffic In Small Geographic Areas.

The NYNEX region is particularly attractive to competition due to high concentrations of traffic in small geographic areas. In New England, NYNEX serves the highly urbanized Boston area, as well as the rural northern New England states. Historically considered to be a mecca for educational and medical institutions, Boston attracts a highly sophisticated, educated customer base, and in recent years has attracted high-tech industries within the Route 128 circle in eastern Massachusetts. In New York, NYNEX serves one of the most highly concentrated financial hubs of the world, Manhattan. Its serving area also consists of the very rural upstate region with less concentrated economic opportunities. LATA 132, the metropolitan New York City area, produces about 50% of the recurring and usage-based charges for Special Access and Switched Access revenue in the State of New York. The 132 LATA represents approximately 80% of the total local business revenue generated in New York. Southern Manhattan, in only 12 central offices, generates about 30% of New York's total local business telecommunications revenue.

Attachment 1 shows that only 0.3% of New York's land mass generates 30% of NYNEX's business and interexchange access revenues in the state of New York. Attachment 2 looks at the same concentration phenomenon from a slightly different perspective. As can be seen, 90% of NYNEX's New York business call revenues (which include Interexchange Access for this purpose) originate from only 10% of the New York geographic land area. The revenues from these areas support the rest of New York state's telecommunications services through subsidies built into the NYNEX rate structure. This

concentration of profitable traffic in small geographic areas made NYNEX the first region where competitive access providers ("CAPs") sought to provide service.

The CAPs began service in the NYNEX region as early as 1985, and the NYNEX region represents the largest CAP market. Although the NYNEX region represents only 10 percent of nationwide LEC revenues, it represents 50 percent of the revenues of the two largest CAPs, MFS and Teleport. See Attachment 3. The location of the CAP networks in New York confirms the fact that competitors were attracted by the concentrations of revenues and profits in the urban NYNEX areas. Attachment 4 shows the networks and locations of MFS, Teleport and Locate simultaneously on a view of lower Manhattan. The MFS network configuration is taken from early MFS advertising and, as can be seen, its fiber routes cover the entire lower half of Manhattan. In more recent advertising, MFS has claimed the entire lower half of Manhattan as the "network coverage area" for its Intelenet service (Attachment 5). Although Teleport does not provide route maps as part of its advertising efforts, it does provide point-to-point descriptions of its routes. This information reveals that Teleport also has comprehensive coverage of lower Manhattan. Locate, the largest provider of wireless loop technology and digital microwave in the nation, also has extensive coverage on Manhattan. Locate's service points and hubs are depicted as stars on the map.

It is obvious that these three companies are all interested in the concentration of revenues in lower Manhattan. And they have captured a significant share of the market. They provide service to essentially all of the IXCs and to over 30% of NYNEX's top 100 business customers in New York, who account for over $750 million of the company's annual revenue. A 1992 market survey of NYNEX's top 200 Manhattan customers showed that they

had obtained 36 percent of the premises-to-POP private line market in New York in DS1 equivalent circuits.

B. Competition In the NYNEX Region Has Been Promoted By The Most Liberal State Regulatory Climate In The Country.

The rapid evolution of competition in the NYNEX region was fostered by a liberal state regulatory environment that permitted the CAPs to offer local exchange services through flexible rules for shared tenant services and, later, through certification as local exchange carriers. Most state regulatory commissions limit or prohibit CAPs, cable companies, and other carriers from providing telephone service in competition with the local exchange carrier.[1] However, the state regulatory commissions in the NYNEX region have led the nation in removing barriers to competition. The following is a description of the actions that have been taken in each state:

B.1. New York

Resellers and Shared Tenant Providers. Under the rules applicable to shared tenant providers, the CAPs can resell local and long distance service to any point in the exchange area. Shared tenant providers are not limited, as they are in some other states, to providing service to the buildings in which they are located. In a Shared Tenant Service scenario, a CAP can resell NYNEX telephone numbers to end users, using its switch to provide business lines to the end users and using PBX trunk lines to NYNEX's switch to provide services off the CAP's network. The CAP can use direct facilities between its switch

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[1] See Communications Daily, November 16, 1993, Vol. 13, No. 220, pp. 3-4. The National Cable Telephone Association characterizes New York as the most accessible state for telco competition, with Massachusetts as one of two other states where the regulatory commissions have allowed switched access competition. Id.

and an interexchange carrier to bypass NYNEX's access services.

New York Public Service Commission ("NYPSC") decisions have lifted resale restrictions and have permitted competitors to enter the intrastate toll, WATS, FX, Switched and Non-Switched private line markets. Also, terminal equipment provided by NYNEX or by other vendors was available to be resold or shared. Large users were permitted to resell or share idle capacity of their terminal equipment or network services. Through resale and shared use, residence and small business subscribers as well as large users benefited from the economies of scale and the competition introduced by this decision.

Loop Competition. Competition has also evolved in the loop portion of the network with the ability of alternate providers to provide private line loops. NYNEX was ordered to unbundle the local loop for all services into link and port elements, and to provide comparably efficient interconnection ("CEI") to unbundled ports through physical collocation arrangements. This provides end users with the ability to choose NYNEX or an alternate link provider to connect from their premises to the NYNEX central office switch. Initially, port connection was at a DS0 level for all services other than Flexpath. Effective July 1, 1993, in response to requests from alternate link providers, NYNEX made available interconnection to ports for all services at the DS1 level. In addition, interconnection using integrated SLC technology is being investigated.

Flexpath port service, like the full Flexpath service, currently has a minimum of 20 consecutive lines. A modification to the offering of Flexpath ports is under investigation wherein the interconnector would not be bound by the minimum of 20 consecutive lines per Flexpath port. This would provide number portability to the CAPs.

Smaller customers of less than twenty lines would be able to disconnect their local loops from NYNEX and select an alternative link provider, while maintaining their existing numbers.

Numbers. The last barrier to local exchange competition, reliance on NYNEX for numbers and dial tone, has been removed with the recent NYPSC order certifying intracity carriers as LECs, with the concomitant privilege of having their own NXXs.

Competitive Pay Telephone Service. The introduction of customer owned coin operated telephones ("COCOTs") has provided NYNEX with competition in the coin market, which was until recently considered a monopoly. Under the provisions of the NYPSC 900 Tariff, section 3, NYNEX is obligated to provide Public Access Lines ("PALs") to all competitors with registered coin-activated telephone sets who wish to offer alternative coin services. This tariff ensures that all coin competitors are treated fairly. PALs are voice grade individual exchange lines which provide exchange access to the subscriber's premises from the NYNEX central office for the purpose of connecting customer-owned coin, coinless or combination coin/coinless operated telephones to the NYNEX network. The usage rates and charges for local and toll message usage for individual business access lines also apply to PAL access lines. All PAL lines terminate in NYNEX- provided jacks or interfaces.

Alternative Operator Services. The NYPSC's rules on Alternative Operator Services ("AOS"), adopted in 1991, facilitated consumer choice by requiring the unblocking of 10XXX access at aggregator locations (pay telephone owners, hotels, hospitals, airports and universities) and by requiring all operator service providers to establish an 800 or 950 access number. The decision encouraged the development of a competitive operator services marketplace in which consumers have ready access to their preferred Operator Services

Providers and in which the provision of pay phone service is supported by all entities that benefit from such service.

COCOT And AOS providers have been very effective competitors of the LECs. Recently, Teleport supplanted NYT as the payphone provider for the Port Authority and it has contracted New Jersey Bell to be its AOS providers.

Switched Access Transport.- In Case 28425, the NYPSC established a competitive framework to govern the provision of intrastate switched access, for both dedicated and common transport. The NYNEX filed tariffs that were effective in January 1993 for dedicated transport and in September 1993 for common transport. Currently, discussions are being held to provide Tandem-to-Tandem signalling arrangements for competitive transport.

IntraLATA Usage Services.- Approximately eighteen carriers are certified to provide interLATA/intraLATA, intercity/intracity switched services in New York. These carriers offer an array of products in direct competition with NYNEX's toll and measured usage services, as well as having the competitive advantage of being able to carry interLATA traffic. On September 20, 1993, the NYPSC ordered NYNEX to expeditiously provide these certified carriers with central office codes for their use in the same manner as traditional LECs utilize such codes. The NYPSC is also considering adopting intraLATA presubscription.

B.2. Vermont

Resale. In a series of orders culminating in December, 1988, the Public Service Board in consolidated Docket 4946/5092/5114 authorized the resale of intraLATA MTS, WATS, and

Public Access Line Service. The consolidated docket also established the state's intraLATA access rate structure and rate levels, and replaced the settlements process between LECs with an access rate structure. The effect of these decisions was to open Vermont's telecommunications market to competition.[2]

Vermont Telecommunications Agreement. In June of 1987, the Vermont Legislature passed 30 V.S.A. §226a, which established the statutory framework for the state's first major incentive regulation agreement, the Vermont Telecommunications Agreement ("VTA"). The VTA became effective in February, 1989 and extended the right to resell to all remaining NYNEX services, except Residence Exchange, Unlimited Business, and Entrance Facilities. The VTA also set a minimum differential of 33 and 1/3% between NYNEX's DDD toll services weighted average rate per minute and its total weighted premium switched access rate per minute; set a maximum 33% differential between the recurring nonusage related monthly access line charge for NYNEX's existing OutWATS Service and the recurring nonusage related charges applicable to the intraLATA FGD special access WAL (which is restricted to intrastate only usage); and required that NYNEX furnish technical information to competitors and potential competitors on a timely basis. This was in exchange for earnings freedom, new product introduction and marketing flexibility, and a 15 day tariff approval process.

The Ten Year Telecommunications Plan published by the Vermont Department of Public Service on October 1, 1992 placed a strong emphasis on the role of competition in benefitting Vermont telephone consumers. All future incentive plans, price regulation or

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[2] On March 21, 1986, NYNEX filed tariffs which became effective May 5, 1986, and which permitted the resale and sharing of MTS, WATS, and Public Access Lines.

otherwise, must be consistent with the terms of the Ten Year Plan.

The Vermont Legislature, in its 1993 session, adopted 30 V.S.A. Sec.226b, which permits the Board to consider and adopt an alternative plan of regulation, including price regulation, provided that the plan adopts the requirements of the Ten Year Plan and supports reasonable competition.

Certification. As of September, 1993, the Vermont Public Service Board has awarded 30 Certificates of Public Good ("CPGs") to non-LEC providers of intraLATA telecommunications services, and 22 more are pending. It is estimated that resellers have captured approximately 40% of the business toll market, and are beginning to make inroads into the residence toll market. Competition is also evident in the public coin market and in the market for E911 service. Moreover, Hyperion Telecommunications, Inc. (a subsidiary of Adelphia Communications Corp., a CATV provider) has applied for a CPG which, if granted, would make Hyperion the first state-wide CAP in Vermont. Hyperion's network will combine the feeder and distribution plant of Adelphia with a fiber backbone built and owned by the Vermont Electric Cooperative.

Competition Proceedings. The Vermont Public Service Board has conducted a Telecommunications Competition Workshop at which it solicited comments from NYNEX, the independent LECs, Sprint, MCI, Long Distance North, AT&T, Hyperion, GTE, First Phone and others. This workshop is expected to be expanded into a broad inquiry into competition.

On October 5, 1993, NYNEX filed its incentive regulation plan, which calls for a price caps form of regulation. As proposed, price increases would be limited according to a

formula, and the existing retail/wholesale rate differentials established in the VTA would be maintained. This proceeding in expected to continue through at least July, 1994.

On August 10, 1993, the Public Service Board opened an investigation into expanded local calling areas, with the obvious effects on toll competition an issue for debate. There is no proposed deadline for this investigation, and a schedule has not yet been formalized. This proceeding is expected to continue through most of 1994.

B.3. Maine

The Maine Public Utilities Commission ("PUC") authorized resale and sharing of intralata WATS and foreign exchange ("FX") service in 1984. In 1985, the PUC commenced a broader investigation of intraLATA competition. The PUC solicited written comments from the local exchange carriers, interexchange carriers, and vendors, and met with them, to frame rules and policies for competition. In November, 1988, the PUC adopted a competition rule ("Chapter 280") for intraLATA toll competition which created an access charge structure with an average common line charge ("CLC") equal to the average contribution inherent in an intraLATA toll minute. The direct link between toll and access rates was intended to support the PUC's stated goal of universal service regardless of who provided the toll service. In 1991, the PUC adopted significant changes to the Chapter 280 rule which brought it in to closer alignment with the Federal access charge structure. The modified structure incorporated lower CLC rates with higher usage levels to encourage toll competition, but retained the correlation between toll rates and access charges. This has created a growing interest in competition in the Maine intrastate toll market. To date, six interexchange carriers have been certificated by the PUC to offer alternative toll services.

The Commission is considering certification applications from another 39 potential toll competitors.

The PUC is currently conducting an investigation into the competitive intrastate toll market in the Investigation Into New England Telephone's Cost of Service and Rate Design, Docket No. 92-130. In this proceeding, the PUC is considering a NYNEX-proposed rate design that would reduce toll rates and access charges by roughly 15 %, funded primarily by a $2.96 increase to monthly basic residential exchange rates. The PUC has expressed its desire to issue a decision in this docket by the end of the year.

B.4. Massachusetts.

The Massachusetts Department of Public Utilities ("DPU") has had a long-standing public policy of promoting competitive entry into the telecommunications marketplace. Beginning in 1984, the DPU conducted an investigation (Docket D.P.U. 1731) into whether or not interLATA and intraLATA competition should be allowed in Massachusetts. NYNEX appeared at these hearings and supported the introduction of competition in the state. In October of 1985, the DPU issued an order allowing intrastate competition in all markets beginning December 1, 1986. At the same time, the DPU began a six year investigation into NYNEX's rates to bring its rates more in line with its costs. These investigations resulted in substantial decreases in access charges and toll rates and increases in the basic dial tone rates.

As a result of the DPU's decision to open the state to competition in 1986, the DPU has certificated 95 carriers to provide service within the state, including IXCs, resellers, AOS providers, and CAPs, and it has certificated 50 pay telephone providers.

In addition, the DPU has been in the forefront in handling competitive issues such as collocation. In 1991, Massachusetts became the second state, after New York, to authorize collocation by approving a stipulation between NYNEX and a CAP in Massachusetts for physical collocation. This occurred because NYNEX had decided to offer physical collocation in advance of any FCC or DPU directive. Last month, NYNEX and MFS filed a stipulated agreement with the DPU that expanded physical collocation sites and that established a forum to discuss competitive issues such as interconnection, number portability, and access to databases. This amended stipulation is pending approval by the DPU. If approved, the agreement would establish a mechanism for further development of the competitive marketplace in Massachusetts.

B.5. New Hampshire

In 1989, NYNEX initiated an investigation into, among other things, regulatory reform, with its Infoage NH 2000 filing. After extensive data requests, pleadings, and hearings, the New Hampshire Public Utilities Commission ("PUC") decided that it could not approve NYNEX's filing but that the issue should be investigated further.

On June 7, 1990, the PUC consolidated certain dockets and established a generic investigation into telecommunications competition to determine whether to allow intraLATA competition and, if so, the appropriate level and structure of access charges. In an order released January 21, 1991, the PUC authorized intraLATA toll competition on an interim basis, pending completion of the generic investigation. Currently, 29 carriers are certificated to provide intraLATA toll service in New Hampshire.

On January 20, 1992, the PUC approved a stipulation which identified certain

matters for resolution by hearing or workshop, including presubscription, extended local service areas, the structure and level of access charges, and GTE's offering of intraLATA toll services within and outside of its present service territory.

By Report and Order dated August 2, 1993, the PUC approved a subsequent, modified stipulation in the generic competition docket that established access rates and structure, toll rules for NYNEX and other carriers, a local rate protection mechanism, and a two-year trial period for intrastate competition. The modified stipulation further set forth an agreement to explore additional items such as presubscription, unbundling, and extended local service in future dockets.

There is also competition in New Hampshire in the COCOT, PBX/Centrex, VMS/answering service, and T1/private line markets.

B.6. Rhode Island

In February 1991, the Rhode Island Public Utilities Commission ("PUC") opened a docket to investigate competition issues, following AT&T's application to offer several intrastate services. During 1991, several interexchange carriers filed tariffs to offer intrastate services, and NYNEX filed a tariff to restructure business toll rates and to offer switched access service. In October 1991, the PUC formally authorized intraLATA competition in Rhode Island and it approved a stipulation entered into by the parties that required NYNEX to file a long run incremental cost study of switched and toll rates. In October 1993, the PUC opened a docket to investigate a service application from a competitive access provider and related issues.